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An Analysis of the Historical Application of Jihad and Implications on the Clash of Civilizations

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ABSTRACT

This paper is a part-review analysis into the modern conception of both the word and *Jihād* and the violent nature of Islam. In order to develop an overarching modern theory of *Jihād*, current opinions and general argumtations in the literature are examined. Two theories have emerged in defining Islam and the role of Jihād in Islam. The first is that of the so-called Muslim apologists; scholars who define Jihād as mainly a personal struggle, and whose physical application (warfare) is only in self-defence of the Islamic community. The second sponsors the concept of ‘offensive’ Jihād: that Islam is imperialistic and has a vision of global domination. The stark contrast in the divisions that the scholarship have are indicative of two opposing parties, likely each basing their respective policy positions on beliefs on the nature of Islam as a violent of peaceful ‘religion’.

Keywords: Clash of Civilizations, Jihad, Islam, Religion, Universalism, International Law

1 Introduction and Background

TWO MAJOR EVENTS, the Iranian Revolution and 9/11, have drawn significant attention from scholars towards the nature of Islam. A left-right opinion divide has occurred in the scholarly discourse, and respective terrorism and national security policies have reflected the this divide, the divide relating to the theoretically peaceful or violent nature of Islam, and hence, Muslims. This study has the main objective of understanding how and in which ways the modern scholarship have conceived of Islam so as to develop a framework for understanding if, on a theoretical scale, Islam is really ‘just a faith’.

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At the core of today's struggles over US hegemony and New World Order, many of the issues that have become critical arise directly out of the Eurocentrism-Islam divide going back to the time of the Crusades. Everything in the oceans of ideological sewage about the "clash of civilizations" that have spewed everywhere in the wake of the 9/11 attack on the Twin Towers was already said over and over back at the time of the Crusades. Certainly: just because the past may be past can hardly ensure that all the issues raised in the past have died with, and in, the past. Blaming this destruction of a 31-year old pair of skyscrapers on an allegedly Islamic hankering after mediaeval obscurantism and backwardness and hence a fanatical hatred of Western modernity, well-known public intellectuals across the political spectrum, ranging from Christopher Hitchens to Bernard Lewis and Samuel Huntington jumped at the opportunity to declare Islam as the biggest threat to humanity. Political greed also set in. Within days of the terror attack, then Italian prime Minister, Silvio Berlusconi declared,¹ "Consider that the attacks on New York and Washington are attacks not only on the United States but on our civilization, of which we are proud bearers, conscious of the supremacy of our civilization, of its discoveries and inventions, which have brought us democratic institutions, respect for the human, civil, religious and political rights of our citizens, openness to diversity and tolerance of everything." American 'right' wouldn't be left behind and soon the Christian far right used every violent incident that has an Arab/Muslim suspect attached to advance political agendas, culminated in the recent US Republican party Presidential contest. This latest rhetoric is evidenced in recent remarks of Dr. Ben Carson² that are matched by the infamous 'Muslim ban' demand³. Even though this drew immediate criticism many likening it Nazi era,⁴ consensus arose that 'radical Islam' is indeed dangerous, lending to the pointed question, "why shouldn't Muslims that can be radicalized anytime be considered a danger to the democratic society?"

The arrival of the 'phenomenon' of Islamic State of Iraq and Levent (ISIL) or Islamic State of Iraq and Syria (ISIS) in 2013 that claimed to bring back prophet Muhammad's long-promised Caliphate, the discussion of Islam as a political force has come back to the forefront. For the first time in modern history, both "pro-Islam" and "anti-Islam" entities are calling IS evil. The self-declared proponents of Islam are saying ISIS is anything but true Islam. On the other hand, the detractors of Islam are saying, ISIS is impersonation of true Islam that is inherently evil.

The chorus against the 'Islamic caliphate' has been surprisingly led by Muslim scholars. American Islamic scholar, Yusuf Hamza, a convert from Christianity, proclaimed Islam has "no role in governance"⁵ and the claims of ISIS are "bogus", calling it a "drug caliphate."⁶ Numerous publications appeared in support of this apolitical version of Islam that makes the Caliphate of prophet Muhammad and his 'rightly guided' Caliphs appear to be irrelevant in today's context.⁷ Such stance hasn't helped alleviate the fear perpetrated by noted Islamophobes that continue to confirm Islam is inherently evil. For them, there is a good reason to be concerned about the rise of Islam that would invariably bring in more terrorism in the west. They appeal to the academics, politicians and churches to be vigilant about Islam

because Islam has no other agenda than take over the world⁸. The Judeo/Christian community mainly remains mooted and some even point out the danger that is inherent to Christianity. For instance, Martin⁹ wrote, “Within the Judeo-Christian belief system, references in the Bible are not only to assassinations and conquest but also to the complete annihilation of enemy nations in the name of the faith. One such campaign is described in the Book of Joshua.” However, the far ‘right’ has been vocal against Islam to the extent that the ‘clash of civilizations’ debate has been turned into a clash between liberalism and totalitarianism, in which the only consensus is “extremist Islam” is dangerous¹⁰ and it is Muslims that have to do something to improve their brand of Islam¹¹. In “Terror and Liberalism” (2003), he scolded liberals too timid to join what he saw as America’s crusade for liberal democracy in Iraq. His recent writings call for unambiguous ideological commitment in what he describes as a worldwide clash between liberalism and totalitarianism. Even the Pope weighed in after Paris attackers were identified as Muslim extremists. In his words, “Such barbarity leaves us dismayed, and we ask ourselves how the human heart can plan and carry out such horrible events.”¹²

For the broad mass of the populations of Muslim-majority countries and regions, there could hardly be any time to reflect on anything, let alone take a hard look at their fundamental belief system. In fact, the society has become so self righteous that the only option that doesn’t stand a chance is that Islam may have been a genuine ‘way of life’ as claimed in its original source, namely the Qur’ān and *Hadith* (prophetic narrations). The line that everyone seems to miss is the fact that Islam mandates a lifestyle, which by default presents the Caliphate of the prophet as the model for a just society¹³. Numerous authors mentioned¹⁴ that there was an epoch that saw a remarkable surge in social development, initially mostly outside Europe. This social development was led by Prophet Muhammad. Even beyond the Muslim world, this individual has been ranked number one as the most influential ‘religious’ and ‘secular’ leader of all time.¹⁵ After his death, the institution or nation (*ummah*) that he founded became an example of an “ideal society”¹⁶.

This paper starts off with the premise that Islam is best defined by the Holy Qur’ān and case laws offered during the events of the lifetime of Prophet Muhammad and four rightly guided Caliphs. The first part of the current paper analyzes how Islamic social reform is conducted within the confines of the Holy Qur’ān and *Hadith*. First, Islamic cognition tool that was the hallmark of the Prophet’s revolution that catapulted Islamic civilization to the position of most dominant and longest lasting in known history is presented. Maximizing the potential of human thought material (HTM), this cognition tool is then used to analyze all existing theories and subsequently deconstruct them based on both form and content of each. Because the premises are analyzed, fundamental flaws of each theories became apparent. Also, no major battle was omitted, enabling the analysis to be comprehensive. In part 2, all major wars during prophet Muhammad’s life, followed by those fought during the rightly guided Caliphs during the 30 years after prophet Muhammad’s passing are analyzed using the same cognition tool.

2 Supporters of the notion of offensive Jihad

There are a few approaches to the *jus ad bellum* rules in Islam, and also with the nature of *Jihād*. Nearly all scholarly works by Muslim and non-Muslim researchers fall under one of the two categories, namely, defensive *Jihād* and offensive *Jihād*. Cavanaugh¹⁷ briefly describes the same two approaches, albeit calling offensive *Jihād* ‘textual’ and defensive *Jihād* ‘contextual’. Scholars, such as Firestone¹⁸ and Khadduri,¹⁹ take the superficial approach to analyzing Qur’ānic verses (orders) regarding *Jihād*. On the other side, there is the contextual approach that looks at the historical context of the revelation of the verse, aided by the crucially important *Hadiths* (his sayings, actions, and actions he condoned or gave tacit approval), to develop a criterion of when *Jihād* may be waged against a group. This section presents a literature review of scholars supporting the notion that Islam is violent in nature.

The first, perhaps more intriguing but less fashionable line of thinking would belong to the textual—often dubbed conservative—approach as categorized by Cavanaugh. In other words, supporting of the aggressive nature of *Jihād*. There are several arguments for the case of aggressive *Jihād*. The first and perhaps the most important one is the Qur’ānic evidence. The verses, sometimes termed “sword verses” as stated by van der Krogt²⁰ are often applied for evidence of the violent and very confrontational nature of *Jihād*. These verses, 9:5 and 9:29 clearly showing a confrontational and aggressive tone, when taken out of context, can raise obvious concern with the nature of Islam as a religion itself. In fact, there are several verses similar to this one that seem to clearly be ordering the mass slaughter of *kafirs* (who reject Islam) and people of the book (Jews and Christians of the time), as outlined by Al-Dawoody, who adds verses 2:217 and 2:216 to the list.²¹ He provides a detailed rebuttal to the advancement of this theory of Firestone’s historic analysis. Firestone claims that throughout Islamic formative history, there have been developing stages of *Jihād* and when one is allowed to fight. The first stage is non-confrontation, the second permitting defensive fighting, the third allowing indiscriminate attacks-with guidelines provided, and the fourth ordering war on all non-Muslim entities and nations. Al-Dawoody correctly points out, “[i]t goes without saying that the Qur’ānic verses on the issue of war must be read in their socio-political and linguistic contexts.” Hence, if someone were to simply state the text of a verse and apply it unconditionally, it would not reveal the real picture of what the criteria are. More importantly, it disregards the entire “metadata” of Islamic history used as a guide for centuries in war analysis and history, providing for anything but a lopsided view. The majority of Qur’ānic verses and historical contextualization is discussed in Part 2 of this paper. For now, it suffices to state that there is an overwhelming amount of literature in opposition to the findings of Firestone. Cavanaugh, for example, also looks through this theory of textual analysis, but provides no specific rebuttal, except with the statement that studying the concept of *Jihād* would be impractical to engage in a discourse about *Jihād*, without acknowledging its historical context.²²

A major misconception (that should be quickly deconstructed for further reference) about *Jihād*, is the “pay *jizyah* [poll] tax, convert to Islam, or fight” notion of how Islamic foreign

diplomacy is ideally conducted. Perhaps one of the most misunderstood components of *siyar* (international Islamic law) is this notion, which has become an accepted wisdom by the academic majority, as is discussed in ‘The Concept of *Jihād* in Islamic International Law’.²³ Also, the conservative Islamic view, as discussed later, accepted this as the norm. There are only a handful of accounts of the prophet and his four ‘rightly guided’ successors’ (Caliphs) sending coercive letters in the above tone, and only a handful of general state interaction with the prophet and state leaders. They are examined in the history section. The purpose of this section is only to deconstruct modern opinions and research methods that are ineffective (akin to misconceptions) and finding problems in common theories relating to the nature of *Jihād*. This is the clearing-the-table-phase that can then be set up the way prophet Muhammad would have done it. For now, it need only be understood that such a notion is a misconception that is often supported by the progressive *Jihād* scholars, as well as more conservative Muslims (as we will see below).

There are several articles and scholars in favour of “offensive *Jihād*”, some discussed by Ali and Rehman²⁴ who cited the arguments of Mushkat, Khadduri, and Busuttil. Khadduri (discussed by Al-Dawoody)²⁵, made some important historical points when discussing Islamic jurisprudence and *siyar*. Al-Dawoody acknowledges that according to great scholars such as Abu Hanifah and al-Shaybani, their discourse on *Jihād* was made on the assumption that there was a constant state of war—possibly drawing from the notion developed by Islamic jurists, of *Dar al Islam* and *Dar al Harb*, and how non-Muslim land was all referred to as ‘abode of war’ – a term attributed to the rest of the world, with a few exceptions. Al-Dawoody cited Esposito’s counterargument to Khadduri’s claim, stating that the reason for this assumption was because the Islamic state in fact *was* at a constant state of war at the time, and that was the reason for why several classical Islamic scholars wrote as if the Islamic State was in a constant state of war²⁶. This is problematic because it would imply that these scholars viewed the Abbasid Empire (that was in power during the time of these scholars’ lifetimes) as a legitimate regime. We know that at least this could not be true in the case of Abu Hanifah, as he had several problems with the Abbasids; causing ultimate imprisonment, torture, and poisoning, due to his opinion that Al-Mansur (the Abbasid caliph) should be overthrown.²⁷ So, if anything, a more reasonable conclusion to counter the argument of Khadduri would be that the original - albeit not the mainstream - classical scholars simply assumed that the Islamic state would be in a state of war because of the geopolitical situation of the entire world at the time. War was very common for any political entity at the time, especially on the borders of any state. Furthermore, a historical fact is that the Islamic state *was* constantly opposed militarily. It is reasonable to assume that the Islamic state would be at a constant state of war, given its history and the general situation of the world at the time.

Mushkat²⁸ states that because *Dar al Harb* and *Dar al Islam* are categorized as world sections, Islamic law “enjoins Moslems to maintain a state of permanent belligerence with all nonbelievers, collectively encompassed in the *dar al-harb*, the domain of war.” With no further explanation or historical argument, this seems to be a common feature among supporters of the offensive *Jihād*, all ignoring any discussion of crucial historical timelines. For instance, Donner,

in his article “The Sources of Islamic Conceptions of War,”²⁹ goes through an extensive amount of philosophy and understandings of Islamic jurisprudence. What one does not see throughout the article, even in his section ‘Historical circumstances’³⁰ dedicated to historical case laws and analysis, is any indication of case law analysis or reasoning, but instead, one sees unfounded conclusions such as “[T]he earliest of Muslims already were motivated by a religiously legitimized zeal to conquer...”³¹ This is the same assumption that Donner makes in the conclusion of the section, and the section (and the article) contains no specific argument as to why he continues to assert such assumption. Such an assumption at the onset of cognition will, no doubt, lead to the conclusion that the assumption will hold true. This assumption substitutes, and consequently ruins, the whole notion of objective historical analysis. Again, this is a common feature among the more modern offensive *Jihād*-supporting scholars, none of whom had any trail of detailed historical analysis. The only time such analysis is present is in the older cases, particularly the case of Firestone, most of whose work has been deconstructed by Al-Dawoody and Esposito to make a case for defensive *Jihād* argument.

Another argument along this line can be found in van der Krogt’s theory of *Jihād*,³² which attempts to compartmentalize the several points of argument from the defensive-*Jihād* side of the scholarship. He overviews some brief history, but mainly refutes the existing literature of what he calls the writing of ‘apologists’. There are several flaws in his style of argumentation in the article, along with technical flaws that should be discussed. First of all, he refutes whom he saw as the founder of the line of thinking that *Jihād* is defensive, namely, John Esposito. Van der Krogt focuses on less significant points about his work, for instance, accusing him of claiming himself to be an exegetist,³³ instead of debating the core historical issues. Secondly, in van der Krogt’s brief take on history, he takes an approach in line with Firestone’s analysis. Although he provides no direct reference, the resemblance is clear. The following is a quote from him discussing Prophet Muhammad’s state after being forced out of Mecca, “Forced out of Mecca in 622, the Prophet Muhammad and his followers migrated to Medina (Yathrib) and soon began to raid Meccan caravans.” Al-Dawoody discusses from Firestone’s work,³⁴ and mentions that the entire narrative (later going into specific examples) surrounds the notion that Muhammad was the troublemaker and that he mostly instigated battles/movements against him³⁵, very similar to van der Krogt’s interpretation of history. Another example of this similarity is when he discusses the issue of the ‘Islamic conquests’, and attempts to deduce from historical events to form criteria (in this case ‘encouraging war on all neighboring states’) that fit the presumption that Islam is inherently violent. This is surprising, considering that others have not generally gone so far as to doing this. The incident here is with Rabi‘ ibn ‘Amir, a Muslim envoy that was speaking with the Sassanid General Rostam Farrokhzad,

“Allah has sent us and brought us here so that we may free those who desire from servitude [*ibādat*] to earthly rulers and make them servants of God, that we may change their poverty into wealth and free them from the tyranny of [false] religions and bring them to the justice of Islam. He has called us to bring His religion to all His creatures and to call them to Islam. Whoever accepts it from us will be safe and we shall leave him alone but whoever refuses we shall fight until we fulfill the promise of God.”³⁶

This event did occur, and could imply that the Islamic conquest of Persia was offensive and unprovoked. However, the problem lies within the lack of context. In this case, he uses this narration as evidence that the goal of Islam is indeed to fight anybody who refuses Islam. In reality, there are several important points that need to be considered. Firstly, the citation takes this event out of context. The context was that Rabi bin Amr was sent to negotiate with Rostam after they had fought, and before the major battle of Qadisiyya.³⁷ This implies that the decision to go to war with the Persians was already made, and that these were pre-battle negotiations were taking place so as to prevent the war.³⁸ Regarding the extrapolation from the last sentence, this is a simple case of misunderstanding due to wording. What was meant by the statement “whoever accepts it will be safe...but whoever refuses we shall fight...” is that before the battle starts, if anyone converts to Islam, they will be safe and not punished. Whereas, if they do not accept this offer, the Muslims would be required to fight. This means that if the king or others convert, there is no need to fight. This is supported by the Hadith (see second part of the paper) in which the Prophet ordered all military commanders to present people with the offer of peaceful surrender so long as they accept Islam or pay the *jizyah* tax. The question arises as to why the issue of paying *jizyah* was not mentioned by Rabi in this narration. The most logical explanation is that, in earlier negotiations the opposing party was presented with that offer³⁹. A small exchange in the middle of the course of the long war in which a diplomat offered peace if they accept Islam, was misconstrued to show as if this was a first visit to general Rostam and Rabi was explaining the general criteria by which Muslims use to conduct their foreign policy. Again, a process of ‘history discrimination’ is evident. In reality, contemporary international affairs continue to use this technique, calling it ‘last ditch diplomacy to avert all out war’, as evident from many wars after 9/11 and equally significant treaties that averted all out wars⁴⁰.

Regarding Qur’ānic analysis, the pattern is the same, van der Krogt does mention that scholars have raised concern, but did not contextualize. These are all examples of arguments and historical case law analyses of these scholars, who seem to have developed a clear pattern of inappropriate presumption regarding Islam. Perhaps, what van der Krogt and the others were correct in pointing out is that in the later periods of Islam, it became expansionist. In other words, they conflate true Islam with its expansionist counterpart instituted by the Umayyad dynasty. In his own admission,⁴¹ van der Krogt states that only later on (3rd Hijra/9th CE century) Islam developed an expansionist policy. The scope of the paper does not cover the entire progression of *Jihād*, but it would suffice to say that the historical analysis of the Prophet and Islamic caliphs’ expeditions was incorrect, perhaps intertwined with the belief that the later century (from the Umayyads) Muslim expansions into India and so on were based on true Islamic teachings and case laws of the prophet’s time. Certain scholars (even including Esposito) have admitted⁴² that the *dar al Islam* (land under Muslim control) must be spread against the *dar al Harb* (all other land, translated to “land of war”) to advance the borders of divine rule. This could have very well been the case in the later expansionary period under the Umayyads, but just arbitrarily laid down to the case of the prophet and four rightly guided caliphs—unless of course they are debating the issue of the conquests of eastern Byzantium and the Sassanian empire as mentioned by Esposito.⁴³ The point made here is that *dar al Islam/Harb* itself was an invention

of classical jurists, possibly endorsing more offensive policies being undertaken by the Umayyads and Abbasids at the time, such as the conquest of Spain, India, through central Asia, and later on Ottoman expansion into western Europe. These policies and jurisprudential evidence of offensive *Jihād* may have been taken as a standard of Islam by scholars, such as Firestone, Donner, and van der Krogt. It is conceivable that they applied this logic into the Prophet's mission of delivering Islam, reflecting a conflation of Prophet's original mission and how latter Muslim rulers perceived Islam as.

Sayyid Qutb, one of the most prominent revivalists of modern time, is also a strong proponent of the notion that Muslim 'defeatists' or 'apologists' are responsible for perpetrating the 'defensive' *Jihād* doctrine. He says,

"They say, 'Islam has prescribed only defensive war!' and think that they have done some good for their religion by depriving it of its method, which is to abolish all injustice from the earth, to bring people to the worship of God alone, and to bring them out of servitude to others into the servants of the Lord."⁴⁴

We see that the apologists are detested for their defensive/defeatist ideology. From the eyes of somebody like Qutb – a man that led an Islamic political movement - it would make sense to be angry at the liberal/moderate Muslims, the likes of whom are present today in the form of "TV evangelists" that preach that Islam is a pacifist religion, akin to the Christian TV evangelical counterpart. These scholars (e.g. Dr. Zakir Naik and Dr. Bilal Phillips) will be discussed in latter segments of this paper, but the point here is Qutb's scorn for these pacifist Muslim scholars may have interfered with his historical reasoning. He makes the argument that Islam must be an expansionary religion, because not doing so would not permit potential Muslims to be exposed to the truth, and that the divine law must replace and destroy the 'evil man-made destructive regimes'. In reply to the 'no compulsion in religion' verse, which is often quoted by apologists, he mentions that people are not forced to accept Islam, but rather subject to Islamic rule.⁴⁵ He claims that this sort of goal cannot be achieved through preaching; stating that the previous prophets' message delivery would have been much easier to get across. His first premise, of course, throughout is that the goal of every Muslim should be to militarily establish the rule of God. He backs it up with a few points summarized as: obeying means worshipping other humans, referring to a *hadith* of the prophet making commentary on a verse of Qur'ān (9:31, discussed in the next paragraph). For historical evidence of arbitrary expansion, he refers to the Roman and Persian conquests of Islam as evidence. For instance, the Rustam—Rabi ibn Amir interaction cited by van der Krogt was shown as evidence of the "convert, pay *jizyah*, or fight" policy. The other theory arguing that Muslims have been commanded to fight non-Muslims in four stages,⁴⁶ the theory that Firestone subscribes to has already been deconstructed earlier in this paper. Furthermore, Qutb mentions several times that orientalist take the stance of pro-defensive *Jihād*, and are trying to weaken the concept that Islam is political. Finally, he lists several verses of Qur'ān to justify his stand. These verses are taken out of context, similar to Firestone's Qur'ānic analysis discussed in relation to offensive *Jihād*. Overall, Qutb makes the entire purpose of *Jihād* as to convert the world to Islam and establish supreme Islamic rule on all of the

infidels. Unsurprisingly, this is the same principle that governs mindset of Crusaders⁴⁷. Clearly, Qutb needs rigorous deconstruction.

In his first argument, Qutb's first premise is that Islam must be spread militarily. This is supported by the notion that not doing so is 'worshipping', as he quoted a *hadith* where the prophet was reciting the following verse (9:31): "They (the People of the Book) have taken their rabbis and priests as lords other than God". 'Adi reports: 'I said, 'They do not worship their priests.' God's Messenger replied, 'Whatever their priests and rabbis call permissible, they accept as permissible; whatever they declare as forbidden, they consider as forbidden, and thus they worship them.'"⁴⁸ There clearly is a difference between worshipping through obeying religious duties of leaders, and following the law of the land in a non-Muslim country. Qutb claims that if military action is not pursued, Muslims are not doing their duty to spread Islam and destroy the 'evil man made' system of governance. What he does through these types of arguments is create his own set of criteria of when to go to war, about what the foreign policy of Islam is, etc. This skews Islamic cognition and his reasoning is presenting his version of Islam as true Islam. In other words, he is not enforcing what the prophet did, but essentially what he believes the prophet should have done. If the prophet or four caliphs ever (as we will see in latter section) attacked a group of people for their man-made faith/administrative system, then his claim would have some validity. However, this was never the case, and was not an agenda of the prophet. To draw parallel to his argument, this would be equivalent to using logic to make the point of praying only one time a day and then providing evidence from the Qur'ān. Nothing of this argument would be logical, because it was not the practice of the prophet, thus violating the minor premise of Islamic cognition: Muhammad is the messenger of God. Qutb's line of argument simply goes against the mission of Islam. Such fallacious cognition has been termed 'aphenomenal' elsewhere.⁴⁹

Qutb continues that the expansion of Islam militarily under Abu Bakr and 'Umar was motivated by the need to spread Islam globally. We will see in Part 2 of this paper that this is not the case. Qutb also mentions multiple times of his contempt of the Orientalist ideology,⁵⁰ i.e., the portrayal that orthodox Islam and Middle Eastern society is passive and apologetic by nature. It is to be acknowledged that this was the norm of classical Orientalism by Tuastad.⁵¹ To turn the tables, Qutb would not be pleased to hear that neo-Orientalism, developed after the Iranian revolution, portrays classical Islam to be hostile and offensive as Tuastad said regarding the change from Orientalism to neo-Orientalism. He says: "This represents a continuity from Orientalist to neo-Orientalist thought, whereby Middle Eastern society is seen as either too weak or ... too strong."⁵² Marranci also mentioned the neo-Orientalist view that Apologists' claim that extremists' views (such as Qutb's) were "nothing other than apologetic"⁵³ Qutb is well versed in Islamic jurisprudence (*Fiqh*). However, he does not grasp the notion of using detailed historical case laws – a deficiency that has been mentioned regarding the scholars that support the notion of offensive *Jihād*.

Syed Abul A'la Maududi, another influential Islamic scholar that led political Islamic movements in the Indian subcontinent has made the same general argument.⁵⁴ Consequently, the above

deconstruction applies to his work as well. To his credit, however, Maududi is vociferously points out the events of the Crusade and categorically denies any resemblance of Crusade with *Jihād*, nonetheless arguing that an Islamic state needs to conduct *Jihād* in order to establish rule of Allah's law.

Just as with the second line of argument, there are several Muslim contemporary scholars/Imams with '*fatwas*' or Islamic rulings. Ali, in 'Resurrecting *Siyyar* through *Fatwas*? (Re) Constructing 'Islamic International Law' in a Post-(Iraq) Invasion World',⁵⁵ analyzed the impact of the Iraq war on popular Muslim perspectives of *Jihād* and *Siyyar* through analysis of online contemporary *fatwas* pertaining to the Iraq War. This enabled him to get a view of the overall environment among the Muslim community of the Iraq War pertaining to *Jihād*.⁵⁶ This section takes a similar approach in order to construct a perspective based on contemporary *fatwas*. This represents a fatwa along conservative Islamic thought. The fatwa (below) was issued by Shaykh Muhammad Saalih al-Munajjid, one of the most reputed scholars of the Salafi movement in Saudi Arabia. He, and his well-known colleagues Abd al-Aziz ibn Baz (d. 1999) and Muhammad ibn al Uthaymeen (d. 2001) are both very respected leaders of conservative Sunni Islam, forming the most esteemed of religious bodies in Saudi Arabia. Al-Munajjid's fatwa⁵⁷ has several reasons behind why Muslims go to *Jihād*. These reasons are:

- Fighting disbelief, there are several accounts of *hadith* and Qur'ānic verses indicating the need to fight non-Muslims. These arguments are similar to Qutb's, claiming the need to spread Islam to non-Muslim lands;
- Repelling aggression on those who attack Muslims; based on Qur'ān 2:190 and 9:13;
- Removing *fitnah*: fighting '*kafirs*' that oppress Muslims;
- Protecting the state; protecting borders and fighting people plotting against Muslims;
- For war booty, provided the booty is legitimate and is of '*halal*' income (the stated reason for the battle of Badr).

From what we glean here, as well as in Qutb and Maududi, the conservative side of Islamic contemporary scholarship seems to be closer to the more aggressive side of *Jihād*, viz, the offensive *Jihād* – the one endorsed by neo-Orientalists. This is supported by common notions in the literature. For instance, Cavanaugh that acknowledges:

"Conservative readings of *Jihād* 'fossilizes the confrontational and conflictual element of *Jihād*, thus precluding alternative legal reasoning, compatible with present day requirements of coexistence in a world espousing diverse ideologies.'" ⁵⁸

It is the same conclusion that is offered by the likes of Ali and Rehman that state:

"Implications of this conservative view in Islamic jurisprudence for doctrines such as *Jihād* are far reaching indeed. The predominance of this school of thought fossilises the confrontational and conflictual element of *Jihād*, thus precluding alternative legal reasoning..." ⁵⁹

It is fair to say that the more conservative elements of Islam believe that *Jihād* is confrontational or aggressive, in the sense that the goal of *Jihād* used by an Islamic state is to do *Jihād* on all non-Muslim states that either reject the hegemony of Islamic rule, or refuse to pay *jizyah* and maintain a semi-autonomous state.

3 Supporters of the defensive notion of *Jihād*, and others

There is a great deal of literature claiming an exactly opposite role and conditions of *Jihād* in an Islamic state. The following review examines a few articles that are supportive of the notion of defensive *Jihād*, along with systematic deconstruction of the arguments advanced in these papers. In the literature on international Islamic jurisprudence, Hallaq correctly points out that the word *Jihād* may have many meanings, as it has been exposed to several cultures throughout history.⁶⁰ The modern literature has been aware of this, and often shows all of the sides of an argument to the real meaning of *Jihād*, before taking a position, as will be seen in latter sections.

Ali and Rehman review several pro-defensive *Jihād* arguments. There are two important misconceptions on this side, picked up by some modern literature⁶¹ and by western Islamic scholars, especially relating to the concept of the greater and lesser *Jihād* and the implication that the more significant meaning of *Jihād* is in fact self-struggle. The first argument made in this case is the *hadith* of the prophet that says “Self-exertion in peaceful and personal compliance with the dictates of Islam (constitutes) is the major or superior *Jihād*.”⁶² Interestingly, this widely quoted narration is not considered authentic, belonging to one of the ‘*kutub sidda*’ or ‘six books’, from which narrations are taken from, a general Islamic scholarly consensus of these books being the standard compilation of the prophet’s narrations. This comes along with specific nonconformity with the Qur’ān⁶³ and several *Hadith*,⁶⁴ and runs contrary to several classical Islamic scholars and historians, including Ibn Taymiyyah,⁶⁵ Al Bayhaqi,⁶⁶ and several others.⁶⁷ The second argument raised by scholars is that the root word of *Jihād* means ‘to strive’, and the popular notion that self exertion and struggle is very important concept in Islam picked up by classical,⁶⁸ as well as contemporary Islamic scholars—especially “apologetic” western Muslim scholars as we will see below. It is true that the root meaning of the word *Jihād* means sustained “struggle” or “striving”. However, the only meanings that are used in the Qur’ān that refers to the word *Jihād* (as in “striving in the path of God”) 68 times, relate to fighting, with physical self or with funds, all relating to establishing the *deen* of Allah.⁶⁹ They all point to personal sacrifice either with life or with wealth. While personal sacrifice may include ‘self actuation’, there remains no confusion when these citings are seen in the context of relevant *Hadiths*. It is within the terminology of the prophet and his companions that one can discover the true meaning intended in the Qur’ān.⁷⁰ Each major *hadith* collection has a book dedicated to *Jihād*. For the purpose of this study, we will only look at the most popular/largest collection, Sahih Bukhari. The book contains 24 *Hadiths* with the word *Jihād* in them, all of them refer to war or fighting. However, it was acknowledged that there are other versions of *Jihād*, for instance, the prophet said that the *Jihād* for women, elderly, and children is Hajj.⁷¹ More importantly, the overall

colloquial terminology refers to *Jihād* as being war or battle. Although it is important to acknowledge the internal struggle is necessary to accomplish anything in the faith ('in the path of *Allah*'), the more significant term relating to war is evident.

Now that common misconceptions have been cleared, it is much easier to enter the realm of pro-defensive arguments. Perhaps one of the most extensive, exhaustive studies of Islamic war, with historical analysis, is the first chapter of the doctoral dissertation of Al-Dawoody "War in Islamic Law: Justifications and Regulations."⁷² The main aim of the study is to analyze the history of the prophet, or *Sirat*, and develop a theory of how war was declared under the Islamic state, while looking at two main interpretations of the history. Al-Dawoody was key to deconstructing Firestone's interpretations, but more importantly, his historical deconstruction was intriguing. The detailed investigation of several battles and raids (*ghazawāt*) of the prophet, each in its own individual context, revealed that each and every belligerence conducted under order of the prophet was never started by the prophet himself, "nor motivated by Islamic teachings to engage in offensive attacks against non-Muslims because of their unbelief in Islam."⁷³ Al-Dawoody criticized authors, such as Firestone, for not looking into individual interactions, and others, such as Donner, for jumping to the conclusion that prophet was successful because he was a "genius strategist". This conclusion is similar to that of Esposito, who looks into individual interactions, and concludes that other parties initiated the attacks and wars the prophet fought in. Whilst Esposito's cognition is correct and logical, his failure appears to come from his analysis of the history involving the four rightly guided caliphs and their military expansion.⁷⁴

There are also others who failed to include all cases⁷⁵ and put in correct perspective. In their discussion about the nature of *Jihād*, they enter a discourse referring to the applicability of *Jihād*. They conclude (from the start to finish) that Islamic jurisprudence, the Sunnah, and the Qur'ān have no consensus; there are no standard accepted criteria on when *Jihād* can be applied. They point out the 'dichotomy' in Islam, the 'peaceful religion' that does not force religion upon people, based on the verse of Qur'ān.⁷⁶ They show that at the same time, jurists such as Abu Hanifah state that the punishment of apostasy is death, based on the *hadith* that the prophet commanded his people to kill those who change their religion, while the prophet at the same time completely forgave the person who asked to kill *Allah*. Gamal Badr's argument⁷⁷ shows that the harsh punishment ascribed to apostasy applies only in the case of political treason. According to them, however, this would be absurd, for the reason that collective apostasy deserves the death penalty a (qualified as being *fitnah*), as per the Qur'ānic verse 2:191 that says that apostasy is worse than murder and qualifies *jus ad bellum* - while at the same time, verse 109:6 states "For you [plural] is your religion, and for me is mine."⁷⁸ He attributes this confusion or perceived contradiction to the assumption that each verse of Qur'ān has many alternative interpretations. While this would be typical of dogmatic cognition, it is unbecoming of a book that claims itself to be 'dogma-free'.

Without resolving the misconception imposed by their own false assumptions, Ali and Rehman enter into the realm of several unfounded conclusions - based on the assumption that 'Islam doesn't make sense'.⁷⁹ As pointed out by Badr,⁸⁰ the first misconception is that 'group

apostasy’ as they put it, is a justification for war. An important distinction to be made before conclusion is that group apostasy, per se, is not punishable by death, unless it is a political advancement against the sovereignty of the Islamic state. For instance, with the ‘Ridda wars’,⁸¹ Abu Bakr declared war on the false prophets, a group of apostates. Whereas ‘Umar was Caliph, he was noted to have gotten angry at his governors for killing groups of apostates.⁸² The major difference to note between the two reactions is that the apostates of Abu Bakr were threatening the sovereignty and power of the political Islamic state. Claiming prophethood, having their own community and laws declaring within the territory of the state is anything but simple non-political, ‘group apostasy’. They are akin to uprising and treason and punishable by death penalty. By contrast, ‘Umar’s apostates were under control of the state and simply converted away from Islam⁸³. Hence, the rule of ‘no compulsion in religion’ holds, leading to ‘Umar’s refusal to sentence the offenders to death. There is no contradiction in these two practices of the two Caliphs. Regarding the verse 2:191 of the Qur’ān cited that commands the Muslims to fight, and that *fitnah* is worse than killing, Rehman and Ali imply that they must be somehow connected, that *fitnah* means groups apostasy, which means war. This is a grave misconception that warrants no justification because the verse 2:190 gives the criterion for waging *Jihād*. It is not conceivable that a serious scholarly work would ignore the preceding verse that qualifies the act of *fitnah* while using a verse to qualify ‘group apostasy’ as *fitnah*. First of all, the word *fitnah* does not mean group apostasy or civil war in the Qur’ān or *hadith*, the term was invented later on⁸⁴. Secondly, the order, in this verse, is to fight the people that initiated fight against the Muslim as seen in preceding verses, 2:189 and 2:190. Badr also makes a point about the three-choices injunction (“pay *jizyah*, convert, or fight”).⁸⁵ As we will see in the next section, this injunction was only applied after the decision to fight as a last-minute negotiation tactic. Furthermore, a state that does surrender (instead of fighting, if they have infringed upon the Muslim state’s sovereignty), the only requirement is that the state allow Islamic laws, without any requirement of conversion to Islam. As for the state’s decision to pay *jizyah*, it even allows them to keep their own judicial system—as we know that *jizyah* paying states were allowed to keep their administrative system⁸⁶ and of course their religion. For instance, they did not pay the zakah as Muslims did, but they instead paid *jizyah*. Evidently, Islam is not coercive in religion, and the only confusion regarding apostasy, politics in the Qur’ān and Sunnah has been fabricated.

At this point, it is important to review the contemporary, mainstream scholars’ views on *Jihād*. They have a vast influential plain, and often have millions of viewers, TV channels, universities and educational institutions, etc. Of course, the entire viewpoint of ‘moderate Islam’ cannot fit under the categories of a view influential speakers or scholars, but because of the large influence they do have on the mainly moderate (non-orthodox) Muslim population provides that they be briefly discussed, to get perspective of their popular ideology on *Jihād*. One of the most influential of scholars/debaters/speakers on the spectrum is Dr. Zakir Naik, the founder of ‘Peace TV’, belonging to the more evangelical-type scholars had this to say about *Jihād*,

“*Jihād* is misunderstood by both Muslims and non-Muslims. *Jihād* means to strive and struggle to make the society better. The best form of *Jihād* is to strive and struggle against non-Muslims, using the teachings of the Qur’ān...”⁸⁷

Bilal Phillips, another influential speaker, in his statement⁸⁸ on Islam and Terrorism, states that Islam was not spread by the sword even though the Islamic state expanded its borders. This is the only remark one can find about his view on *Jihād*. Finally, there is also the North American Islamic Fiqh Council, known for their rather liberal ideology, such as their endorsement of the unorthodox moon calculation method of determining the start of the month of Ramadan and Eid.⁸⁹ In an article published on their behalf of them, Jamal Badawi - a Canadian Muslim scholar —⁹⁰ that combative *Jihād* “[I]s allowed in the Qur’ān for legitimate self-defense in the face of unprovoked aggression or in resisting severe oppression on religious or other grounds.” However, he does not go into the Roman/Persian invasion history, nor into the varying opinions of the usage of the word, *Jihād*. Instead, he simply lists Qur’ānic verses and contexts without refutation or discussion of other scholars’ work. His interpretations are correct, in the sense that he was able to identify the historical contexts to the Qur’ānic orders. His conclusion is correct, although insufficiently elaborate regarding the invasion of Persia and Byzantine empires. Badawi claims that the King of Persia sent letters to Sassanid governors commanding them to kill the prophet, as he did not recant his prophethood⁹¹. This document doesn’t accompany any reference and lacks rigor in this important (what would be) incidence of *jus ad bellum*. Even if such letters were really sent, it was not the reason for the invasion of Sassanid Iraq by Abu Bakr. Again, we see an example of ‘historical tampering’ without reference to make his point.

Another unique approach to the application of war in Islam is the opinion of the British Muslim speaker and Islamic scholar, Hamza Tzortzis. He argues in his essay ‘Is *Jihād* Terrorism?’⁹² about the Islamic legitimacy of terrorism and extremist Islamic movements, relating it to modern day organizations like Al-Qaeda. He summarizes the use of *Jihād* in Islam, categorizing two types; defensive and progressive *Jihād*. Defensive *Jihād*, of course, is understood without saying. Progressive *Jihād*, however, has a more interesting approach. He defines progressive *Jihād* as applying in three conditions “The reasons include removing oppression, defending the weak and implementing the justice of Islam.”⁹³ The first two conditions apply into a major criterion, humanitarian intervention. The last reason is about toppling oppressive legal systems, such as the one in Spain at the time Muslims had invaded them⁹⁴. The first two arguments do fit the history, and an example of it in the Caliphs’ time was Abu Bakr’s invasion into Iraq, for which we will argue there existed such a purpose. The only (major) discrepancy is his saying that the theoretical Islamic state may invade due to humanitarian reasons and suppressive conditions being committed against anybody. As per the verse of Qur’ān 4:75,⁹⁵ it is commanded that Muslims to fight those oppressing Muslims. Tzortzis, whose analysis was strictly historical, did not point this out. The last condition, invading for the sake of getting rid of oppressive administrative/judicial systems of other countries, was backed up by the case law of the Umayyad government’s invasion of Spain. There is no evidence provided that they had invaded for that reason, nor do they amount to case laws themselves. One should note that potential discrepancy of Tzortzis

may be because he saw the Umayyads as a standard or legitimate extension of the legacy of the rightly guided Caliphs. Because he did not provide any other examples or arguments in literature or history, one can only say that the notion of the validity of attacking a nation to remove oppressive legal/administrative systems is unfounded.

5 Conclusion

The purpose of this paper was to review the opinions regarding the criteria for the Islamic *jus ad bellum* in the scholarship. There are several articles and opinions, each differing and proposing a wide range of conclusions and observations. There are several patterns observed throughout the analysis. There are two main divisions of the interpretation of *Jihād* theory, namely, those supported by so-called neo-Orientalists (referred to as the ‘pro-offensive *Jihād* supporters’), and the ‘Apologists’ or defensive-Islam supporters. The former group of literature seems to ignore historical context based on the first premise, that Islam by nature is expansionist.⁹⁶ This is not a ‘bad’ conclusion *per se*, however, it lacks rigorous analysis and contextualization of historical events along with evidence in support of the underlying assumptions. Scholars, such as Qutb and Maududi who are obviously not neo-orientalist, still adhere to the notion of *Jihād* being offensive or expansionist. They are more likely to refer to historical events as a testimony to expansionist nature of Islam. Qutb directly refuted the apologists who analyzed only the prophet’s war interactions and emphasized the perhaps harder-to-prove defensive conquests of eastern Byzantium (and Ghassanid empire) and the conquest of the Sassanian empire. For the two, having an offensive *Jihād* policy would seem fashionable, as the orientalist view at the time was dead against the stance of aggressive *Jihād*. It is also a pattern, it seems, that more political Islamists tend to have aggressive notions of *Jihād*, fitting the notions of political Islam. On the other side of the spectrum, there are the scholars supporting the defensive notion of *Jihād*, often referred to as apologists. They tend to be more objective in the sense that they analyze historical context and contextualize Qur’ānic verses.

However, one major discrepancy among nearly all of them should be noted. Without exception, all in the articles discussed; Esposito, Al-Dawoody, Cavanaugh, Badawi, and Ali and Rehman have all directly or indirectly acknowledged the ‘fact’ that *Jihād* mainly means struggle and self perseverance, and that the fighting portion of it is a minor, less important part of it.⁹⁷ Authors go from completely belittling the fighting *Jihād* and bringing great importance on self *Jihād* (as Badawi did), to acknowledging that the greater *Jihād* is self perseverance, while the combative *Jihād* is less significant-although important for the sake of the discussion (Cavanaugh’s, Al-Dawoody’s, Esposito’s conclusions). As stated above, we know that this is not a correct notion, but is advanced by the ‘apologists’ perhaps to soften the definition of *Jihād*, creating room for the argument that Islam is strictly defensive.

This paper had the purpose of setting the framework—an understanding—of the current opinions and sentiments the scholarly literature has on the the potentially violent nature of Islam. It allowed one to understand the main arguments, their strengths and weaknesses, and eventually

conduct a full and complete historical and jurisprudential analysis of the application of *Jihād*. That is, to eventually understand the relationship between war, violence, terrorism, and Islam.

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⁹³ Ibid.

⁹⁴ Ibid, citing Zion Zohar, *Sephardic and Mizrahi Jewry: from the Golden Age of Spain to modern times* (New York City: NYU Press, 2005), 8-9.

⁹⁵ The Qur’ān 4:75, “And what is [the matter] with you that you fight not in the cause of Allah and [for] the oppressed among men, women, and children who say, "Our Lord, take us out of this city of oppressive people and appoint for us from Yourself a protector and appoint for us from Yourself a helper?"”

⁹⁶ Fred Donner, “The sources of Islamic conceptions of war”, 49: Donner mentions this to be his starting-off assumption

⁹⁷ See: Cavanaugh, “Speaking Law into War”, 8; Badawi, “Muslim/ Non-Muslim relations: an integrative approach”; Al-Dawoody, “War in Islamic Law: justifications and regulations”, 133; Ali and Rehman, “The Concept of Jihad in Islamic International Law”, 330; John L. Esposito and Dalia Mogahed, *Who speaks for Islam?: What a billion Muslims really think* (Washington: Gallup Press, 2007), 10-11.